

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Andre O'Brien,	)	Civil Action No.: 0:12-1783-MGL
	)	
Plaintiff,	)	
	)	
v.	)	<b><u>ORDER</u></b>
	)	
Mitch Stanley,	)	
	)	
Defendant.	)	
	)	

Plaintiff Andre O'Brien ("Plaintiff"), proceeding *pro se*, filed this action pursuant to 42 U.S.C. § 1983 on June 28, 2012 against Defendants alleging violations of his constitutional rights. (ECF No. 1.) At the time of the underlying events, Plaintiff was a pretrial detainee at the Darlington County Detention Center in Darlington, South Carolina.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Paige J. Gossett for pretrial handling. On December 27, 2012, Magistrate Judge Gossett entered a Report and Recommendation ("Report") recommending that this action be dismissed with prejudice for lack of prosecution. The Report of Magistrate Judge Gossett was mailed to Plaintiff advising him of his right to file objections to the Report and the time frame in which he must do so. (ECF No. 32 at 3.) However, he has not done so and objections were due by January 14, 2013.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270, 96 S.Ct. 549, 46 L.Ed.2d 483 (1976). The Court may accept, reject, or modify, in whole or in part, the Report and Recommendation or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must "only satisfy itself that

there is no clear error on the face of the record in order to accept the recommendation." *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

After a careful review of the record, the applicable law, and the Report and Recommendation, the court finds the Magistrate Judge's recommendation to be proper. Accordingly, the Report and Recommendation is incorporated herein by reference and this action is DISMISSED with prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

IT IS SO ORDERED.

/s/Mary G. Lewis  
United States District Judge

Spartanburg, South Carolina

January 28, 2013